(4)

No. 03-1373

Supreme Court, U.S.
FILED
JUN 4 - 2004
OFFICE OF THE CLERK

In The

Supreme Court of the United States

CLEMENT A.ST.HILAIRE
Plaintiff

vs.

GRACE A. ST.HILAIRE
Defendant

PETITIONER FOR WRIT OF CERTIORARI
OF APPEAL COURT FOR THE
STATE OF MAINE

PETITION FOR A REHEARING OF WRIT OF CERTIORARI

Clement A.St.Hilaire
Pro-se Petioner
P.O. Box 592
Stratham, New Hampshire
(603) 320-3918 03885
Judith W. Andrucki
Plaintiff, Respondent
179 Lisbon Street
Lewiston, Maine 04243
Norman J. Rattey
95 Main Street
P.O. Box 3200
Auburn, Maine, 04212
David M. Hirshon
Counselor WithDrawn
3 Canal Plaza
P.O. Box 15060
Portland,Maine 04112

May 30, 2004

QUESTIONS PRESENTED

Whether an"*Aggrieved* Party" with late Notice Ex-parte Receivership order filed with 23days untimely filed that within the Statute of Limitation Being Aggrieved party deprive of Constitutional Fed. Proc.,Thirty days Appeal

Whether that Sole Indentity of tenant-in -common that Generalized post divorce division,Its now an individual partnership where one half Interest of whole property a Constitutional Issue when its Encumber, the separate interest without consent, an without affecting [I]nterest of other Co-Tenant,severed in the Contract Transfer of a"Lease hold,"Credible evidence elements that fraud,in separation interest without written consent when Bond for a deed,extinguish Expeditiuos fashion as excuse that refusal not selling when the Plaintiff established clouds on Title of contingency 18 plus years of Contempt.

Whether there is a Absolute Rights to purchase Plaintiff Halh [I]nterest denies in the whole bundle of Right's in being Contrary to a Constitutional Jurisdition property rights involved, whether any State can deprive the due process of or that encumber their separate interest.

Whether Constitutionally Property demands its return, under dominion and in control that was unjustified refusal to give the property income back is Conversion.

Whether the Defendant is now a Co-tenant owner with the New Owner,was not at Closing or ever signing his free will and Deed unalienable, Where the Receiver in a Fraudulent act of Technical Mistake Joint Tenant a deed that was Abolished by Law Court,Tenant in- Common. Were Receiver Fiduciary duties in not Appraising property and was sold $ 50,000.00 below Market Value.

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TABLE OF AUTHORITIES

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State v. Grant 487 A 2d 627, 629, (Me. 1985)	8.
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Civ.P. Rule 60 (b)	3.
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Black's Law Dict. sixth ed. pg. 527	8.
Black's Law Dict. sixth ed. pg. 668	5.
Contempt enforcement Form 9.31	2.

PROCEDURAL HISTORY OF CASE

Petitioner, Clement A St.Hilaire,Solely half owner responsible Indendity in Partnership Relation in the Marital property as**"Tenant-in-Common"**on May 29,1987.There is **no longed the Divorce Settlement and division**.That Original divorce decree December 7,1983, Agreement is that either Parties,Never Appelled.Its been over 21year since the property division became Partnership and has Same last Name,but not to be characterize by the origination in common logical individual distinct Partner in co owner, Post-After the Divorce Civil Action.Plaintiff's contempt behavoir transfer severed Joint Tenant.Court that "Shifted" Fiduciary Responsibility and the house to be sold by Respondent. provided by the Court Marital property,Wardwell"did not occur in this case but Court exercised"What Cf. Fitzgerald v.TrueWorthy 476 A 2d 183.(Me.1984)The Defendant's Counselor with drew by Irreconcilable.July 8, 2003 Justice Cole J. order Honored Receiver Failed to Appraised the Property Sold on Dec. 11,2003 for $ 79,500.00 Dollars, While under Automatic Stay of Appeal by the Law Court,$ 50,000.00 below the Market Value.The up date Market analysis later sales in the same block of $ 144,000,an 115,000avg. 129,500.00 Receiver signed the Exercusion without the Defendant being there,Contrary to the RESPA. Settlement closing. contrary toTenant in Common Absolute purchase right preemtive acquiring Plaintiff's half interest. May 4, 2004 Justice Delahanty III J held a hearing on distribution of proceed Denied any open Testimonial Hearing, but of Fees only. Not to discuse or cross examine wittness nor Distribution,was of 80 % to Plaintiff. 20 %to Defendant.

CASE ISSUE AND MERITS COLORABLE FACTS

"Engaged in Business" The Procuration that Attorney David M. Hirshon Esq. J.D. of Property Law, had Filed an Action on Nov.21,2002 Plaintiff contempt Court.

Order of Aug.7, 1986 (Abolished the Decree) ExhibitA for Failure 18 yrs 9mos Carry out the Sale.

1.The Plaintiff failed and,or refused to carry out the sale of the marital premises in an Expedious fashion.

2.The Plaintiff Encumbered the Marital residence by entering into bonds for deed,with out the written consent of the Defendant.

3.The Plaintiff has willfully disobeyed the Court Orders as amended in an effort to collect income from the property but require the Defendant to pay all expenses in connection therewith. (David Hirshon *had drop the Ball.*) The Plaintiff is clearly in Contempt Court Failure to sell. **Form 9.31 Motion for Contempt enforcement Divorce Judgment Under M.R. Civ. P. 66 (Civil code § 3440.)** One whose right in property divested See; U.S. v. E. I. du Pond deNemours and Co. 366 U.S. 316, 81 S.Ct. 1243,6 L.Ed. 2d 318, the Black's Law Dictionary sixth.ed. Pg. 478. M.R. § 46.2 Error and Reversible a"Substantial" rights"Contrary Maine Supreme Court as "Substance" That"Colorable merit"resulted from Property Law the **U.S.Constitution Rights Art. 1. XIV Amendment** [1868] Section 1.No State shall make or enforce any law which shall abridge the privileges or immunities of citizen of the United States norshall any State deprive any person of their Property without Due Process Co-tenants(tenancy- in- Common.that Encumber,their separate interest without the consent,and without affecting [I]nterests,....

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1)Here,McGhies rely on McMaster and assert because the Term"Transfer" as used in RCW 19.40.091 (a) is plain an unambiguous, we need not apply rules Statutory construction to the State. The McGhie further argue t he term"transfer"is defined in the UFTA it self and meanes the "every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or the parting with as asset,or an interest in an asset,and includes payment of money, release "Lease"and creation of a lien or other Encumbrance. "RCW 19.40.011"(12). This definition of "Transfer,"that The McGhies assert, must be read into The Statute.

A. STATUTORY JURISDICTION IS CERTIORARI
Rehearing is presented in good faith an not for delay, Other Co-tenants.(Schoenfielf v. Norberg (1970)11Cal. App. 3d. 755,765. the Sole issue in this case whether the "Transfer" means or"Lease"whether beingTransfer RC W 19.40.011 (12) 1.See; 5 Miller ¶ Starr, Cal. Real Estate (3d.ed. 2000) § 12 :11,12:11,pp.22-24)[1]. Error,unresolved, Standings "Prejudice the Petitioner"Credible Evidence. Blind fold"Mistaken in Facts"beyond discretion Justices. Maine Supreme Court Forgotten over theYears May29, 1987, Order Ruled St.Hilaire v. St.Hilaire had severed The Decree that"created Tenant In Common"Donald F. Gordan Cum-03-369 2004 Me.23 2/26/2004.

> *"One half Interest"made no difference whether either one was the sole title holder when the time came to effect the even division legal title in whole or part"*

Partnership relationship,That Court Rule 4 (d)(2)un like the cognate Federal Rule does,Massachusetts Law"That so clearly treats partners, as individuals, solely for thier purpose of Suit"See;Shapira v. Budish 275 Mass.120,126, 175 N.E. 159, 161 (1931). 19-A MRSA. § 953 (9)- (1998). In Not reviewing the Appeal under Civ.P. Rule 60 (b)to Appeal filed Untimely is question of Law"Procedural," Rule 60 (b) M.R. Civ.P. Rule 10 (a)"Title to Real Estate is Involved" Power to decide an pronounce judgment an to carry it into effect between persons and parties were before court for a decision.Power that adjudicates upon and protects the right,and interest of Shapiro v. Wilgus 287 U.S. 348, 355 (1932) In re Dickinson111 N.C.108 15 S.E. 1025. property, Primary source Federal Courts Act provided in Art. III of U.S. Const. and Judiciary of 1789.

1.)The Uniform Fraud Transfer Act RC W 19.40) does not accrue until the Claimant discovers elemments of the Action, Respondent Leased "Encumber Property"elements that "Fraud,"separation interest with out the expressed consent. Dec.1997.Freitag v. Mc.Ghie 821,133 Wn. 2d 816, 947 P 2d 1186.

(Title 28 of U.S. Code) see. Judiciary Acts. Frivolous act. action as excuse, Improper interpretation Property Law "Erors of prejudice"Court in not Reading or taken time to review"Real Property involved"at law, applied contrary to . In re Joshue B. 2001 Me. 115 ¶ 10, 776 A 2d 1240, 1243, see; also Phillips v. Eastern Maine Med Ctr. 565 A 2d 306, 308 (Me. 1989.)[1.)] Judicial Proceeding Any proceeding where that Judicial action is invoked and its taken. Mannix v. Portland Telegram, 144 Or. 172, 23 P 2d138 Whether Contemptuously or Not [i]nterfering in ten yrs. Plaintiff Failure or refussal carryout sale in that expeditious fashion of Marital Property is in Contempt disobeydience.Trial. Jutice Delahanty J. Denial Testimoney Hearing A judicial examination and determination issues between parties in action, Whether Controversy issues question of law or of facts,before a court that has Jurisdiction. Tittsworth v. Chaffin Mo. App 741 S.W. 2d 314 ,317 A judicial examination,Time,Title,Interest's,and Possesion Campbell v. Blanck 17 Ken App. 2d 799,804, 844 P. 2d 75(1993)"Barred Latches" Louis Dryfus Corp. v. Butler, 496 F 2d 806, 808 (6th Cir.(1974) Whether law or facts before a court has proper jurisdiction.The Sixth Amendment, U.S. Const. afford accused the right to a "Public" trial. page 1504 Black's Law sixth ed. That and "Aggrievedperson"Property U.S.Constitutional in Law. Aggrieved Party [2.)] That if his property rights may be diminished or rights detrimentally affected the interest Klein v. Rancho,Montana De Oro Inc. C.A. Cal. 263 F 2d 764,771,Proc. Black's Law Dictionary.sixth ed. pg. 65. 14 M.R.S.A. § 1851 Amend Art.2.(Defies Contemptuous... Alledged, Interference). To the to the extent that here

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1.)Court Pro-se complaints as liberally. Ahmed v. Rosenblatt 118 F 3d 886, 890 (1st Cir. 1997)

2.)States In any Civil action case any party aggrieved by any Judgment may appeal therefrom to the Law Court within 30 days P.L. 2001 ch.17

a reference,I believe Court;it was attorney DavidAustin said he though the- re was a Cloud..... on the Title..... I feelthat the courts order satisfied that"Mr.Hirshon Esq. State;"I absolutely agree So-"Court States: art 7."If that is not in the Registry, I can understand why that situation exists.(Reference order of May 29,1987")Mr.Hirshon "Right So that's why I prepared this order."et cetera,.et cetera "-and Title to real estate is Vested"that just bring us to what your orders say,"prepared an Abstract..... of divorce decree"So,the before at least in connectionwith any if title matters there won't be any cloud.or any dispute as to who owns the property.It's these two individual's as tenants-in common.

Retained Severn Beliveau Esq.Defendant Dec. 05,1996 Superior Court Civ.81-152."Table of Contents" Docket Entries The last dated of entry was **July 20,1993**,Present Dated of **July 25, 2002** Plaintiff Filed Letters that caused the action defendant was not served "Notice" pending Court July 30, 2002 Fraudulent assault Contract decree of a rental client, an no consideration,hardly an earnest purchaser.The action pursuant July of 2002,defendant is only to his Defense.[1]) Boisvert v. Boisvert 672 A 2d at 98 n.3The party must not only show a likelihood of success on the merit but moving that she is reasonably the likely to recover amount at least equal to the amount requested attachment."(at bar there were no liens) See; Jacques v.Brown 609 A 2d 290, 292,- 93 (Me.1992)See; Liberty v. Liberty Cum0-292 Jan. 30, 2001.There was no delay **Sale was Pending on two counts** Under **Bond** for a Deed, **Second Count** abstract Failure and Negligence Robert Mullens not being recorded ***Abstract*** after **paid** That caused"Prejudice Standing Prolonged adjudication

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1.)How-ever [a) moving party must in show agreater than 50% chance of prevailing....That is required showing her to be made through an affidavits; there is no right to a evidentiary hearing "*Id.* atXCII

Black's Law Dictionary sixth ed. page 668. Due Process Clause U.S. Const. Amend XIV § 1 {1} Me. Const. Art 1,§ 6-A-§ {2}Equal Protection of Due Process;Cyr v.Cyr 432 A 2d 793,797, 798 Me.(1981)However noTestimony we reverse and remand See; In re Estate of Came 129 N.H. 544, 548, (1987). Improper hearing in no evidence that of record Abstract of Title as Tenant-in -Common a Androscoggin Title Norman Rattey,no claim to Proceed M.R. Civ. P. Rule 76 D under Rule 59 *"An Appeal from a Judgment whenever taken, preserves for Review any claim of error in the"Records including any claim of error of Orders"*
B.)RECEIVER NEGLIGENCE IN FIDUCIARY DUTY.
The Decree States:"the defendant shall not Suffer waste or Damages to the premises without Written consent," the other"Sold in Commercial Manner of care diligence bring the best possesible price," Plaintiff Counsel as for not having an Appraisal of Property,Petition no Notice to disagree, not at the closing to signed the Settlement unalienable in RESPA. **Norman Rattey Receiver signed** sold on December11,2003 for $ 79,500.00 Error in Fraud Deed,and no order of rights deprived,record Joint Tenants to the New Owners ,Preserves Appeal act from the Judgment under Rule 59. Where Receiver refused that didn't recuse his self's, not honoring a Automatic Stay Continued in Negligence in the technical Discription in his deed contrary to law Court May 29, 1987 **No clouds in Title** transfer an conveyance of Property there was No Levy of Creditor,Mortgage, or Liens.A purchaser at an execution sale suceeds to the interest of the debtor and becomes the tenants in"**Common with one Owner"** (See;5 Miller ¶ Starr, Cal. Real Estate, *supra*, § 12:35., pp. 74 75).(" I, would now be an Owners by Law with that New Owners by.There were no clouds on the Property nor any form of Liens,") $ 79,500.00 paid,Lien of 60,000 buyout. Receiver not taken Control of Rental Income.

to be Paid, states in Court; ("I am not really Receiver in She was Leasing the Property") 1.) 2 Mudd. Ch .232 the New l. Pr. 88;8 com.dig. 890;18 vin.Ab.160.1 Supp.toVes Jr. 455; 2 Id. 57, 58, 74, 75, 442 455,"Bou.Inst. Index."h.t. Broker sold,Dual Agency contract Contrary to Listing a "Undisclosed Dual Agent representing two or more as clients the purchase agent Valeria sold the House..,That Contract with a buyer at bay, 17day sale indication was proof the sale wasn't an Arm's Length transaction after 15 year Listing Thomson v. Anderson 107 Utah 331,153 P 2d 665, 666, badges of Fraud Harris v. Shaw, 244Ark. 150, 272 S.W. 2d 53 (1954). Anticipation of suit Pergrem v. Smith 255 S.W. 2d 42 (Ky.App.1953) Proof of Execution favor admission Mass Court Ross v.Gould 5 green 1.204 Knox & al. v. Silloway Vol. 1.201 page 209,(1833) First Rights of refusal Option Partition Blending Possession pursent warranty Encumber that in orignal Decree **Maine Const.Article1,Art.1.**All men are equally free an independent and have certain natural unalienable right in defending acquiring possessing and protecting property in pursuing and obtaining safty and happiness.Sec. 6-A{2}Sec. 6 further nor be deprived of property or privileges, but by judgment of his"peers"or the law of the land.Title 33 § 159 note 5 but from his devises, Whose Interest are in Common not joint See; Cary v. Talbot (1921) 120 Me. 427. 115 A 166 (a) Title can be taken in the name of partner individualy as tenant- in- common **Uniform Partnership act. and Applicable State Law of Maine** See;Lipman v. Thomas 143 Me. 270, 61 A 2d 130 (1948) Fed. Re-Rolfe (F.B.C.D.C. Mass.) 25 Ber. 89 affd. affd.(CAI) 710 F 2d-1 (1983) Terry v. Little 101 U.S. 216 25 L.ed. 864 (1879) Request the Justice over rule vacate

1.but was In the Order to take the Duty,Liable and bound to a prudent honest discharge of his duties, required all person who receive compsation for their service Story, Bailm. §620, 621: an the case there cited. vide generally,

The"Order Nolle Prosequi Abandon Negligence Black's Law Dict. Sixth ed. pg. 527 U.C.C § 2-312 See;Inecto,Inc. v. Higgins, D.C.N.Y. 21 F. Supp.418 Arm's Leght Trans. Clear Title of the encumber Vested Rights.Receiver had caused"[L]iability it arises when a person{actively] partcipates in a fiduciary's breach of duty....such that he...an could not reasonably beheld to have acted in good faith

"Property sold to bring the Best Possible Price Value" 14 M.R.S.A. § 2002 chapter 403 Their was no appraisal

Absolute Right's to Bid'on his own Property Exchange Deed Title 33 § 176 ch.7:I.Title 33 § 201-A, R.S ch. 95 § 5 Providing 30 day notice 40 dayNotice before such entry 14 M.R.S.A. § 7505 (1980){6}shall Forfeit 3Times amount of Damages.Kapler v. Kapler Pen.00-86-2000 Me.131 7/ 2000, 3 American Property Law 12.45 (casner ed. 1952) In re Armshing 255 Ill. App.3d 844,625 N.E.2d 1108,1993 Rupp v. Kahn. supra 246 Cal. App. 2d at p.195 Fraudulent Conveyances 32 Cornell L.Q. 222 (1946)annos, 76 A. L.R. 864 (1932), 128 A.L.R. 1289 (1940), 133 A.L.R. 1311 (1941), 14 A.L.R. 2d 598 (1950). and 100 A.L.R. 2d 1094 (1965)together with § 6 Section 10 this section is derived from § 11 Uniform Fraud Conveyance Act and § 1-103 "Spinner v. Nutt, 416 Mass.at 556, Kurker v. Hill 44 Ma. App. Ct. 184,189,190 (1998) Legal basis constitutes a bad faith action and justified the award of sanction against the attorney Van EPS. v. Johnston 553 A 2d 1089, 1091, (Vt. 1988) State v. Grant 487 A 2d 627, 629, (Me.1985). Maine U.T.Act.14 M.R.S.A. § 3571 et seq.Fraud 11 U.S.C. § 544 (b)Section 502 Pullen v. Hutchinson (1845) 25 Me. (12 Shep.)249.(I.R.S.)id.at 52 id. 57 id.at 426, 297 A 2d662

C. CONCEALMENT,AND CONVERSION REVENUE

"One More Asset"Aug.5,1986 Order $200 dollars a mos. Equal access to Justice Act.28 U.S.C.§ 2412 (d)sufficiency of the Evidence Question of Law See; Palanza v. Lufkin 2002 Me.143 Cum.02-134 Aug.22, 2002.Tenant Partner's

34 Am.Jur.2d 6291a proportionate share deduction only barred a claim of whole Part 7 Newcombe 54 TC 1298 engaged in Leasing Property (9) Mitchell 28 BTA-767 (a) **Statory Redemption to act** within legal right [f]oreclose on collected revenue under 14 M.R.S.A. § 6322 in *its sole discretion.Appeal and Error 1994, 1003 (9.1) Proof could be Reversed a Appeal only Evidence compelled contrary finding* Gammon v. Verrill 651A 2d 831."as Rent"Shifted responsibility Unjust Enrichment (b) Conversion sufficiently provides "Substance of Merits" United StateArbitration Act III. 2,(1925)[350 U.S. 198,208]"Silents in Shifted Act" "Ambiguity" Austin v. Austin 2000 Me.61 ¶ 4, 748 A 2d 996,998, Statute of limitation **(three years.)**e.g.Md.Fam. Law Code Ann. 8-210 (1991) Wis. Status Ann. 767 .255 (7) (West Law Supp. 1995).Tenant-In-Common half Interest in the Title Marital Property.18 years 9 mos. Withheld "If a person entitled to there possesion of Personal Property demands it the return,under dominion and in Control,that was unjustified the refusal to give the property back is Conversion See; Edwards v.Jenkins(1932) 214 Cal 713, 720, Witkin, (*Supra* at section 622,) United States 365 U.S. 857, 858,....3 Am. Jur. 2d § 19 , 3 ACorbin Contract § 611 (1960) U.S. (Sixth Circuit Orchard Group v. Konica Med. Corp. No.96-3686 App. 98 A 0041P.See; Jeffrey Ackerman v. Theodore M. Hojnowski 2002 Me. 147 Aug. 27, 2002 (1)Federal a. Mass Adv. Sh.(1975)2052 2060, Demoulas Super Mkt. v. Peter's Mass. App. 370N. E. 719. 9 Moore's Par. 110.18. (IRC) § 1031(a) (1) Invests. Remedy by Due Course of Law Constitution Act. 1-9an Const. Art. 4-17" Miscarriage of Justice" that exceed the Clean Hands Equity, Andis v. Schick Dry Shaver Inc. No. 6303 (94 F 2d 271 7th Circuit parrellel to Court Key 351.50, Colby v. York County 442 A 2d 54 Me. 1982) Title 33 Chapter 17 § 953 Recovery of Rent, Their share, refused for a reasonable time after demand Co tenants.

10.
CONCLUSION

Controversy of Evidence as illegal The consequence of Fraudulent results of Plaintiff Action contrary to Statute "Transfer in Lease"Plaintiff encumbered in Bond forthe Deed Marital residence without written Defendant that consent Tenant's-in-Common with many leases of over 18year and 9 mos. willfully in disobedience, beyond the dictionary meanimg Expeditious fashion, failed refused carry-out the sale. In efforts to collect and Capitalize on rental.The proof Evidence Credibility demonstrated the prejudice hear-say being Meritorious,There no Liens, of Mortgage, Creditors,no absolute contingency.Fiduciary Receiver of not Appraising.The Settlement of RESPA in conducted without A Market Value.The receiver signed transfer Fraudulent deed was not Petitioner's Free will in deed , equally deprived of acquiring tenant [I]nterest half the property Where May 29, 1987order Declaration one half solely affecting [I]nterest Vested right theTitle. Negligence of her Counsel duty, not recorded Abstract, There were no cloud of Title.The Respondent Barred of Ten Years Limitation, of Laches, Superior Docket Table "of Contents"July 20,1993,and complaint letter filed on July25,2002.moving party must assert beyond its doubt The Habendum clause To-have-and to hold or to-have-and-holding-on- to Capitalize in Unjust an Enrichment, Evidence that Circumvent to Fraud as Ex-parte receiver had extinguish un-clean-hands of 18 yrs. of Contempt.

Dated May 30,2004

Norman J.Ratley
95 Maine Street
P.O. BOX 3200
Auburn, Maine 04212

Clement A.St.Hilaire
P.O. Box 592
Stratham,New Hampshire
(603) 320 3918 03885

David W.Hirshon
3 Canal Street P.O. B.15060
Portland, Maine 04112

Judith W. Andrucki
,79 Lisbon Street P.O.B.7120
Lewiston, Maine 04243

APPENDIX

A-11.

STATE OF MAINE **SUPRIOR COURT**
OXFORD,ss. **CIVIL ACTION**
DOCKET NO.CV.81-152

GRACE A.ST.HILAIRE
Plaintriff
v.
CLEMENT A.ST.HILAIRE
Defandant

ORDER FOR PARTIAL DISB URSEMENT OF PROCEEDS OF SALE OF MARITAL RESIDENCE

[RECEIVED MAY 12,2004]

Pursuant to the Order of this court dated March17 2004 the clerk caused the proceed of the Sale of the Marital residence to be deposited in an interest bearing account at Oxford Bank. and Trust Company, escrow account number 036900836.As of the date of hearing May4 2004 the total balance on deposit is $ 73,230.58, including accumulated interest.

The Plaintiff has requested a partial disbursement of proceeds to which she is entitled at this time.

After hearing, The Court grants the Motion and orders that the following payments be made,

A. Net sale proceeds $ 72,949.99

B Present balance (net proceeds pluss accumulated interest) $ 73,230.58

C.1.One half of net sale Proceeds to Plaintiff $ 36,474.99

2. Reimbursement to Plaintiff for Broker's Fees deducted from gross sale amount($ 5.565.00-.-2) 2,782.50

3.Reimbursement to Plaintiff for Taxes and other Fees deducted from gross Sale Amount($ 6,632.75-.- 2) 3,316.38

4.Amount payable to Plaintiff

Grace A.St.Hilaire $ 42,573.87

D.Total proceeds to be paid to Hark Andrucki, Attorney for Plaintiff, for counsel fees, expenses, and treble costs, as provided in the separate Order this Date.

E. 1.Fees and expenses of Receiver per Affidavit of March 24,2004 2,047.70

2.Fees and Expenses of Supplemental affidavit of receiver for hearing on May 4,2004. 880.55

3.Total proceeds to be paid to Norman J.Rattey Esq.Receiver $ 2,928.25

F. 5%of proceeds of escrow account as allowed by 4 M.R.S.A. § 556 for the Total sum of proceeds paid by this Order ($ 53,039.61). Payment to be made to the Treasurer of the State of Maine. $ 2,651.98

G. Total of all sums to be paid pursuant to this Order $ 55,691.59

Any further sums claimed by or ordered paid to Plaintiff shall be by separate Order.

It is futher Ordered that all remaining proceeds,including sum due to defendant shall remain on deposit until final determination of any remaining motions and until further Order of the Court.

The Clerk shall incorporate this Order into the Docket by reference. M.R.Civ.P. (a) So Ordered.

Dated: May 11, 2004 " ss./ Thomas E. DelahantyII"
Justice, Superior Court.

A-13.

STATE OF MAINE
OXFORD,ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV.81-152

GRACE A.ST. HILAIRE
Plaintiff

ORDER ON ATTORNEY FEES AND COSTS

v.

CLEMENT A. ST.HILAIRE
Defendant

[RECEIVED MAY 12 2004]

In its decision of February 5,2004, the Law Court ordered that the defendant pay to plaintiff "treble costs and her reasonable attorney fees to be determinded on remand."St Hilaire v.St.Hilaire,2004 Me.13, 841A 2d783. Pursuant to this directive,the court scheduled a hearing for May4,2004 Notice was provided by the Clerk Plaintiff appeared in person and with counsel and the defendant appeared *pro-se* as he has in the past.

In support of her request for counsel fees and costs plaintiff submitted affidavits that cover not only the appeal, but also counsel's services in responding to defendant's request for reconsideration.[1]

The defendant objected to the fees by filing a extensive bound brief that attempted to argue facts not evidence and to relitigate issues previously determinded by the court and totally irrelevant to the present proceedings.

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1 Plaintiff also submitted an affidavit regading counsel fees incurred for responding to defendant's petition for Writ of Certiorari before the United States Supreme Court. Because it was not submitted until the date of the hearing, the court will consider it at a future time after the defendant has had an opportunit to respond and be heard at the hearing for pending motions on June 3,2004

At the May 4,th hearing on attorney fees,Mr. St.Hilaire continued to argue legal authority and fact not relevant to fees and costs.

After hearing and review of counsel's fees affidavits,the court awards treble costs for the appeal in the amount of $ 249.39.

The affidavit for counsel fees by Judith W. Andrucki Esq.states that she has practice law since1979,that she is "experienced in the litigation of divorce and family law matters in the geographical area. She charges $ 150.00 per hour as afair and reasonable rate and the court accepts that amount as reasonable for an attorney of her experience and Competence in the Androscoggin and Oxford County area. In addition to counsel fees, plaintiff also seek to recover routine and necessary expenses. A second affidavit request fees and expenses regarding defendants"Motion for Consideration"seeking reconsideration by the Law Court.

Attorney Andrucki's affidavits are supported by itemized billing statements for 60.7 hours of service, and $ 192.85 for routine expenses.

An examination of the statement of time for service appears to list five persons as"time keeper"they are listed by initial: "JWA," "DCP," "KGK," "CAH," and"ABM," The court assumes the "JWA," refers to Judith W.Andrucki, Esq. and the "KGK," refers to Karen G. Kingsley, Esq. who appeared before the court at the hearing on May 4,th. The other persons are not identified in either the affidavit or the biling statement, but appear to be a paralegal or other attorneys within plaintiff counsel's office.The service listed for counsel appear directly related to the appeal and their hourly rates do not exceed or are less than those Attorney Andrucki.

Althoug the Law Court's Order provides for "reasonable attorney fees,"this court determines that it is reason

Able to compensate plaintiff for expenses of paralegal. for services that would otherwise be performed by an attorney at a higher rate, but not for matters that are ministerial or administrative.Accordingly, the court approves fees in the amount of $ 6,810.00[2] plus expenses of $190.25 for a total of $ 7,000.50 to be paid from defen dant's share of the proceeds of the marital residence.

The Court also approves fees of $ 285.00 and expenses of $ 2.60 directly related to the defendant's post-appeal "Motion for Consideration,"[3]. The Clerk shall make the following entry as the Order of the Court:

1.The defendant shall pay to plaintiff the sumof $249.39 for treble costs as Ordered by the Law Court.

2.The defendant shall pay to plaintiff the sum $ 6,810.25 for reasonable attorney fees as Ordered by the Law Court, pluss fees of $ 285.00 for attorney's service related to defendant's "Motion for Consideration."

3.The defendant shall pay to plaintiff the sumof $190.25 as reasonable and necessary expenses outside the bill of costs relative to the appeal and $ 2.60 for expenses related to defendant's "Motion for Consideration."

4. The Total sum of $ 7,537.49 to be paid by the defendant shallbe deducted from his share of disbursement of proceeds from the sale of the marital real estate.[4]

So Ordered.

Dated: May 11, 2004 "ss./Thomas E.DelahantyII"

Justice, Superior Court

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[2]Although not identified in counsel's affidavit, the court assumes that services for "CAH," at $75.00 per hour are for paralegal time. The Court has received the statement of service and has deducted $ 431.25 (5.75 hours at $ 75.00 per hour) for what appear to be ministerial administrative functions.

[3] The court has deducted $ 52.50 (.7hours @ $75.00 per hour) for paralegal service on the "Motion for Consideration."

[4] See separate Order of this date.